

### **REMARKS**

Applicant would like to thank the Examiner for the careful consideration given the present application.

Applicant would also like to thank the Examiner for the time given in the telephone interview on August 4, 2010. No exhibits were shown. The most recent restriction requirement was discussed regarding the apparatus and method claims. Applicant asserted that there should be no additional search burden on the Examiner regarding Groups I-III.

The most recent Office action set forth a restriction requirement between the following allegedly patentably-distinct inventions: Group I (claims 1-12, 14, 16, and 26), Group II (claim 15), and Group III (claims 17-19 and 23-25). The Examiner states that the above “inventions” are not so linked as to form a single general inventive concept under PCT Rule 13.1, and therefore that election for examination purposes is proper. This requirement is traversed.

Per MPEP 1850, “Unity of Invention Before the International Searching Authority,” with respect to a group of inventions claimed in an international application, unity of invention exists only when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding special technical features. (PCT Rule 13.1)

The method for determining unity of invention under PCT Rule 13 shall be construed as permitting, in particular, the inclusion of any one of the following combinations of claims of different categories in the same international application: (B) In addition to an independent claim for a given process, an independent claim for an apparatus or means specifically designed for carrying out the said process. Moreover, if the independent claims avoid the prior art and satisfy the requirement of unity of invention, no problem of lack of unity arises in respect of any claims that depend on the independent claims.

The Examiner alleges that FR-A-2125534 discloses a module for the production of concrete floors comprising a plurality of adjacent displacers. The Examiner then alleges that the special technical feature linking the there inventions does not provide a contribution over the prior art. Respectfully, the Examiner is in error.

FR-A-2125534 does not show a prefabricated module having displacement bodies as described and claimed in the instant application. Instead, FR-A-2125534 merely shows a wire frame (2) encased in concrete, which is prefabricated. The module is completed only with the

tubes (3) in place and *also encased in the concrete*. Any tube inserted before this time will bear the risk of sliding/falling out when the frame is handled, such as while in transport, stocking, and/or installation. For example, FIGS. 1-4 illustrate large spacing gaps between the frame (2) and the tubes (3). In other words, the prefabricated module can only be utilized and moved with the frame (2) and tubes (3) both encased in concrete. The frame cannot be used or moved with the tubes in-place and without the concrete because the tubes would simply fall out. Thus, the completed modules of FR-A-2125534 are heavy, bulky, difficult and expensive to move, and are not usable in custom work.

The frame (2) furthermore does not exhibit an open side directed downwardly. To the contrary, this side is closed by a concrete plate (1). Again, the concrete plate (1) must be moved together with the prefabricated module, and thus the frame (2) cannot have the open side directed downward. Thus, none of the inventive angle specifications for adjusting the rods of the lattice-work may be read from FR-A-2125534. Accordingly, because all of the independent claims avoid the prior art and satisfy the requirement of unity of invention, the inventions are not mutually exclusive and the restriction requirement is traversed.

Nevertheless, to comply with the USPTO rules, Applicant respectfully elects the invention of Group III, claims 17-19 and 23-25, for prosecution on the merits.

The Office action also set forth numerous bases of election. Each of these is addressed below.

#### Election of Species

The Examiner set forth an election-of-species requirement between the following allegedly patentably-distinct species:

- A1: wherein the modules are produced from welded wire mesh sections that are cut
- A2: wherein the modules are produced from downwardly open lattice construction that respectively feature an essentially triangular construction on sides of the lattice-work
- A3: the modules comprise plastic parts
- A4: the modules comprise shells

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The Examiner states that the above “species” are mutually exclusive and therefore that election for examination purposes is proper. This requirement is traversed. No two of the aforementioned features are mutually exclusive. For example, there can be modules produced from welded wire mesh sections that are cut (A1) and modules produced from downwardly open lattice construction that respectively feature an essentially triangular construction on sides of the lattice-work (A2). Either of these also can be combined with modules that comprise plastic parts (A3). Finally, any combination of these could further be combined with modules that comprise shells (A4). These are all distinct features that can be combined with one another, and are not mutually exclusive. That is, the selection of one of these features does not preclude the incorporation of one or more other of the identified features. For these reasons, the features are not mutually exclusive and the election requirement is traversed.

Nevertheless, to comply with the USPTO rules, applicant respectfully elects species A2, wherein the modules are produced from downwardly open lattice construction that respectively feature an essentially triangular construction on sides of the lattice-work. This election is made with traverse for the reasons given above. Currently, all claims 1-3, 6-12, 14-19, and 23-26 read on (i.e. do not exclude and are therefore generic to) the elected species.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

Respectfully submitted,

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